

## REMARKS

Applicant respectfully requests reconsideration of the application in view of the foregoing amendments and for the reasons that follow.

### INFORMATION DISCLOSURE STATEMENT: ¶8

Filed concurrently herewith, as requested, is an information disclosure statement listing the prior art references cited in the parent application – US patent 5,429,803 (“the ‘803 patent”). As provided in 37 CFR §1.98(d), copies of the references are not being provided since they were previously submitted in the parent application.

### DRAWING: ¶2

Attached is a new sheet of drawing containing Fig. 10, as requested. This sheet is labeled “AMENDED” as required, and cleanly incorporates the reference number change shown in the marked-up version of Fig. 10 submitted with the reissue application as filed. Applicant infers from the Office Action that this change has been approved. A corresponding change has been made to the specification, and is discussed below.

### REISSUE DECLARATION (35 U.S.C. §251): ¶¶1-4

A substitute reissue declaration is submitted herewith, as requested. The substitute declaration addresses the issues raised by the Examiner, as follows.

The declaration (¶1) now specifically refers to changes to the specification, including the claims, in the amendments filed with the reissue application, and in this Amendment.

The declaration (¶¶6, 7) now specifies several (but not all) errors that are being corrected in the reissue application. Note that 37 C.F.R. §1.175(a)(1) requires that only one such error be stated in the declaration. See, also, MPEP §1414 II (“Applicant need only specify in the reissue oath/declaration one of the errors upon which reissue is based.”).

Some of the errors in the claims, and their corrective amendments, are mentioned in the declaration. However, Applicant has not pointed out all the differences between new claims 22-43 and canceled original claims 1-21. The Examiner states that this is required in MPEP 1414, but Applicant cannot find such a requirement. Reconsideration is respectfully requested.

The declaration (§8) now states, “All errors which are being corrected in the reissue application up to the time of filing of this declaration arose without deceptive intention on [Applicant’s] part.”

SPECIFICATION: ¶2 & 6

The Examiner objected to the form of the originally filed amendments to the specification. Those “amendments” should be ignored in favor of the above amendments to the specification, which present specific replacement paragraphs with bracketing and underlining in compliance with 37 C.F.R. §§1.173(b)(1), 1.173(d), as follows.

The replacement paragraph at column 1, lines 4-8, characterizes parent application Ser. No. 08/340,884 as a continuation-in-part of Ser. No. 07/686,934, as required by the Examiner.

The replacement paragraph at column 1, lines 36-50 clarifies the third sentence therein by changing “of” to “in” and adding two missing words and a comma.

The replacement paragraph at column 1, line 63 to column 2, line 7 clarifies the second sentence therein by changing “and” to “end” (correcting a typographical error).

The replacement paragraph at column 2, lines 34-43 eliminates an unnecessary and potentially confusing gap in the text.

The replacement paragraph at column 6, lines 10-37 clarifies the fourth sentence therein by changing a drawing reference number so that the same reference number no longer is used to designate two different elements.

CLAIM 39 (35 U.S.C. §112): ¶7

Claim 39, which is rejected under 35 U.S.C. §112, 1<sup>st</sup> ¶, is said to lack original written description support for “a lid from which the *first housing* extends into the specimen cup and wherein the *first housing* has at least two perforations at different longitudinal points along its length.” Office Action, ¶7 (emphasis added). The amendment of claim 39 overcomes this rejection by reciting, in accordance with the disclosure (column 3, lines 52-65), that a tube (rather than a housing) extends into the specimen cup from the lid and has perforations.

ORIGINAL PATENT: ¶5

In accordance with 37 C.F.R. §1.178, applicant hereby offers to surrender the original patent (the '803 patent), and will surrender same, or provide a statement of its loss if necessary, upon allowance of this reissue application.

CONCLUSION

Applicant respectfully submits that the rejections under 35 U.S.C. §§112 and 251 no longer are proper, and that the application is now in condition for allowance.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the application.

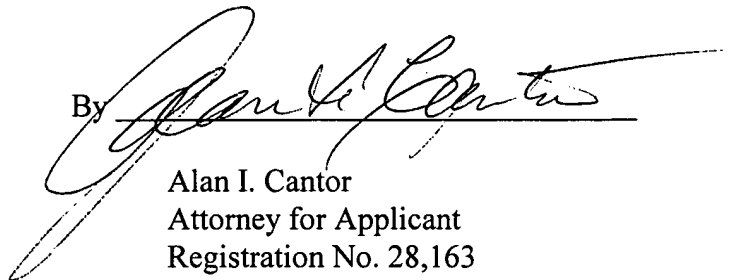
The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date FEB 18 2005

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**Amendment to the Drawing:**

The attached drawing sheet, which contains Fig. 10 and is labeled “AMENDED,” is presented as a new formal drawing sheet to be substituted for the previously submitted drawing sheet containing Fig. 10. The amendment to Fig. 10 (reference number 79 (lower right) changed to 101) was indicated in an annotated copy of the previous drawing sheet, which was filed with the application on December 14, 2000.